

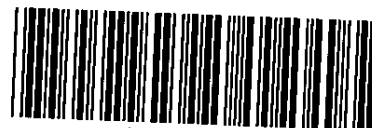
CVA3

Notice of supervisor's progress report in voluntary arrangement



Companies House

TUESDAY



A22 *A7L1FDT6*
18/12/2018 #30
COMPANIES HOUSE

1 Company details

Company number 0 8 3 5 8 8 3 3

Company name in full AV Cargo Airlines Limited

→ Filling in this form
Please complete in typescript or in
bold black capitals.

2 Supervisor's name

Full forename(s) Mark Rodney

Surname Newton

3 Supervisor's address

Building name/number Lynton House

Street 7 - 12 Tavistock Square

Post town London

County/Region

Postcode W C 1 H 9 L T

Country

4 Supervisor's name ^①

Full forename(s) Simon James

Surname Underwood

① Other supervisor
Use this section to tell us about
another supervisor.

5 Supervisor's address ^②

Building name/number Lynton House

Street 7 - 12 Tavistock Square

Post town London

County/Region


Postcode W C 1 H 9 L T

Country

② Other supervisor
Use this section to tell us about
another supervisor.

CVA3

Notice of supervisor's progress report in voluntary arrangement

6	Date of voluntary arrangement	
Date	d0 d6 m1 m1 y2 y0 y1 y4	
7	Period of progress report	
Date from	d0 d6 m1 m1 y2 y0 y1 y7	
Date to	d0 d5 m1 m1 y2 y0 y1 y8	
8	Progress report	
	<input checked="" type="checkbox"/> I attach a copy of the progress report	
9	Sign and date	
Supervisor's signature	Signature X  X	
Signature date	d1 d4 m1 m2 y2 y0 y1 y8	

CVA3

Notice of supervisor's progress report in voluntary arrangement



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name

CAREY HUMMINGBES

Company name

Menzies LLP

Address

Lynton House, 7 - 12 Tavistock Square

Post town

London

County/Region

Postcode

W C 1 H 9 L T

Country

DX

Telephone

02920 674990



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed and dated the form.



Important information

All information on this form will appear on the public record.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.



Further information

For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse

AV Cargo Airlines Limited
Company Voluntary Arrangement ('CVA')
High Court of Justice No. 7477 of 2014

Report of the Joint Supervisors
In accordance with Rule 2.41 of the Insolvency (England and Wales) Rules 2016

Name of the Joint Supervisors:	Simon James Underwood & Mark Rodney Newton
Date of appointment:	6 November 2014
Period of Report:	6 November 2017 to 5 November 2018
Date of Report:	14 December 2018

**AV Cargo Airlines Limited
Company Voluntary Arrangement ('CVA')
High Court of Justice No. 7477 of 2014**

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1 INTRODUCTION

Simon Underwood and I were appointed as Joint Supervisors of AV Cargo Airlines Limited ('the Company') on 6 November 2014. Pursuant to Rule 2.41 of the Insolvency (England and Wales) Rules 2016 ('the Rules'), I now present our fourth annual report for the period ended 5 November 2018.

This report should be read in conjunction with the directors' proposal for a company voluntary arrangement ('CVA') dated 15 October 2014 and my previous progress reports dated 21 December 2015, 21 December 2016 and 22 December 2017.

A Receipts and Payments account is attached at Appendix 2 for the twelve month period ending 5 November 2018.

2 BACKGROUND

Creditors should refer to my previous reports and the CVA proposal for information on the Company's history and events leading up to the CVA.

The arrangement was proposed as a composition in full and final settlement of its debts. The approval of a voluntary arrangement has enabled the continuation of trade, and therefore allowed the company to make contributions into the arrangement for the benefit of the creditors.

The proposals were accepted without modifications at the first meeting of creditors held on 6 November 2014.

The arrangement has a proposed duration of five years, with a minimum overall return to creditors of an estimated 5.5p in the £.

3 ASSET REALISATIONS

Contributions

As per the terms of the CVA, the Company has been making its monthly contributions at a rate of £12,000 per month. During the period to which this report relates, I have received payments totalling £120,000. I am also expecting two further payments of £24,000 that relate to arrears and I am in correspondence with the directors regarding these payments.

The directors would like to propose a variation to the Arrangement and the proposed variation report will be sent to Creditors under separate cover in due course.

In accordance with the framework of the CVA, a review of the Company's annual accounts must be performed in order to allow me to assess whether an increase in voluntary contributions is applicable. The accounts have been reviewed and no increase is applicable.

The terms of the proposals did not include any other Company assets. The only other realisation has been interest of £74.98 accrued on the account held for the purposes of the Arrangement.

4 CREDITOR CLAIMS

Secured creditor

Creditors should refer to my previous report for a detailed background regarding the secured creditor, Avient Limited.

To date Avient Limited have been paid £339,572.75 and have been paid in full.

Unsecured preferential creditors

At the outset it was anticipated that former employees would have preferential claims for pay arrears, up to a maximum of £800, and/or accrued holiday pay.

These claims were received and were met by the Redundancy Payments Office ('RPO') to the extent required by the Employment Rights Act 1996.

Unsecured non-preferential creditors

Claims received and admitted to date from the trade and expense creditors total £4,888,301.57, which includes an unsecured claim from Avient Limited of £1,830,000.

It should be noted that the claims received to date have been adjudicated for dividend purposes following repayment of the secured creditor liability.

5 DIVIDENDS

On present information, it appears the dividend prospects are in line with the amounts proposed in the original proposal.

On 9 October 2018, a dividend in the sum of £4,188.18, representing 100p in the £ was paid to the preferential creditors.

It is expected that a dividend to unsecured creditors will be paid shortly. Claims have now been adjudicated as referred to above and payment is expected to be made within the next four weeks.

6 COSTS AND EXPENSES

Joint Supervisors' remuneration

In accordance with the terms of the proposal, the Joint Supervisors' remuneration has been fixed by reference to the time properly given by them and their staff, in attending to matters arising in the winding up. All time spent on administering the arrangement is charged directly to the case in 6 minutes units.

I attach at Appendix 3 a breakdown of my time costs by work category and employee grade, for the period 6 November 2017 to 5 November 2018. Time incurred to date totals £83,404.71 representing 365.40 hours at an average charge out rate of £228.26 per hour. Of this, £23,130.50 was incurred during the period of this report, representing 94.50 hours at an average charge out rate of £244.77. Remuneration of £20,470.00 was paid during the period of this report.

A narrative explanation of work done during the period since my last progress report is set out at Appendix 3a.

The total time costs that have been incurred in the voluntary arrangement to date have exceeded the total estimated fees of £40,000 which were set out in the directors' proposal dated 15 October 2014. These estimated fees were increased to £60,000 in the progress report dated 21 December 2016.

1. Creditors were subsequently advised that the estimated fees were increasing to £70,000 in the report dated 20 December 2017. I now report that estimated time costs are projected at £90,000 as additional work has been undertaken that was not envisaged when originally estimating the fees.

Total fees drawn to date total £78,382.51.

The reasons for exceeding the estimated fees detailed above are as follows:

- Due to the company being constantly in arrears with contribution payments (although not in breach), additional time incurred in closer monitoring resulting in numerous chaser emails and telephone calls being made to the directors to prompt payment. It was not originally envisaged any time would be incurred in this regard.
- The case accounting system and case management system were reviewed on a regular basis to ascertain whether funds had been received. Also, prior emails and telephone notes were reviewed to ascertain prior communications between the directors and to chase promises of payment where appropriate.
- Due to the voluntary contribution arrears, a meeting was scheduled with the directors to discuss the late payments of the contributions and the potential impact of the arrears. It was explained that continued arrears could lead to the company being in breach of the arrangement. Once the directors understood the severity of the situation, payments were forthcoming although they are never up to date but one to two months in arrears.
- As close monitoring of the voluntary contributions was required due to the continued arrears, the time costs for this period are higher than the year before.
- Also, during the period of this report, the directors also suggested a variation to the proposals. Calls and emails were made to start the process of contacting creditors but the directors never proceeded with this at the time.
- Subsequently, the directors have indicated they wish to propose a variation to the creditors and this will be communicated in the near future. Additional time was incurred in liaising with the directors.
- The preferential creditors have been reviewed, agreed and paid in full.
- The process of reviewing, agreeing and admitting unsecured creditor claims has been undertaken during this reporting period. Due to the level of creditor claims, significant time has been spent in this regard.
- Dealing with the company in regards to communications received from HM Revenue & Customs in respect of the company's taxation liabilities and subsequent correspondence with HM Revenue & Customs.

Currently I do not intend to draw remuneration in excess of the estimated fees of £90,000.

A copy of the creditors guide to fees charged by Supervisor's is available free of charge by contacting this office, alternatively it can be downloaded from the following web link:

<https://www.menzies.co.uk/helping-you/business-recovery/fees-guide/>

In common with all professional firms, scale rates increase from time to time over the period of administration of each insolvency case. Details of the charge out rates charged by this firm are enclosed at Appendix 4.

Disbursements

In relation to disbursements, where my firm has been incurred a cost that is directly referable to this matter and the payment was made to a third party, these costs will be reimbursed. Disbursements of this nature which my firm has incurred, including those that have not yet been reimbursed, are shown at Appendix 5.

No disbursements have or will be claimed which include an element of shared or allocated cost (e.g. photocopying).

Professionals, sub-contractors and other expenses

Where appropriate, I may employ professionals to advise me in relation to certain specialist matters. No such professionals have been engaged during the period to which this report relates.

7 DATA PROTECTION NOTICE

The Joint officeholders are data controllers of personal data as defined by the relevant provisions of the applicable data protection legislation. Menzies LLP will act as a data processor on their instructions. Personal data will be kept secure and processed only for matters relating to the insolvency appointment. Full details of our privacy notice is at the following link: <https://www.menzies.co.uk/legal/>.

8 CONCLUSION

A first interim dividend to unsecured creditors is due to be paid within the next four weeks.

The directors intend to propose a variation to the arrangement shortly whereby a lump sum payment is anticipated to be offered in an attempt to bring the CVA to a conclusion.

As stated, a variation report will be sent to Creditors under separate cover detailing the proposed variation to be considered by way of a decision by correspondence.

If you have any queries regarding the contents of this report then please contact Gareth Cummings of my office by telephone on 029 2067 4995 or by email GCummings@menzies.co.uk.

Yours faithfully



Mark Newton
Joint Supervisor

Appendix 1

Statutory information

Company name:	AV Cargo Airlines Limited
Company number:	08358833
Principal trading activity:	Freight air transportation
Joint Supervisors' names:	Mark Rodney Newton and Simon James Underwood
Joint Supervisors' address:	Menzies LLP, Lynton House, 7 – 12 Tavistock Square, London, WC1H 9LT
Date of appointment:	6 November 2014
Contact details of Joint Supervisors:	Gareth Cummings on 029 2067 4995 or at GCummings@menzies.co.uk

AV Cargo Airlines Limited
(Under a Voluntary Arrangement)

Joint Supervisors' Summary of Receipts and Payments

RECEIPTS	Statement of Affairs (£)	From 06/11/2014 To 06/11/2017 (£)	From 07/11/2017 To 05/11/2018 (£)	Total (£)
Book Debts	25,000.00	93,471.39	0.00	93,471.39
Voluntary Contributions	720,000.00	420,000.00	120,000.00	540,000.00
Bank Interest Gross		62.73	74.98	137.71
		513,534.12	120,074.98	633,609.10
PAYMENTS				
Avient Limited (In Liquidation)	(330,000.00)	339,572.75	0.00	339,572.75
Specific Bond		420.00	0.00	420.00
Supervisor's remuneration		57,912.51	20,470.00	78,382.51
Supervisors's disbursements		106.30	0.00	106.30
Companies House		4.00	0.00	4.00
Court filing fee		50.00	0.00	50.00
Legal fees (2)		750.00	0.00	750.00
VAT		150.00	0.00	150.00
HM Revenue & Customs		0.00	148.40	148.40
Employee Arrears/Holiday Pay		0.00	595.08	595.08
The National Insurance Fund		0.00	3,444.70	3,444.70
Trade & Expense Creditors	(3,452,000.00)	0.00	0.00	0.00
Employees	(42,000.00)	0.00	0.00	0.00
Directors' Loans	(1,161,000.00)	0.00	0.00	0.00
HM Revenue & Customs - PAYE/NI	(201,000.00)	0.00	0.00	0.00
Avient Limited (In Liquidation)	(1,830,000.00)	0.00	0.00	0.00
		398,965.56	24,658.18	423,623.74
Net Receipts/(Payments)		114,568.56	95,416.80	209,985.36
MADE UP AS FOLLOWS				
Lloyds		114,568.56	95,416.80	209,985.36
		114,568.56	95,416.80	209,985.36

AV Cargo Airlines Limited - (Company Voluntary Arrangement)

Appendix 3

Time charge out summary for the period from 6 November 2017 to 5 November 2018

HOURS

Classification of work function

	Partner/ Director	Manager	Senior	Administrator	Support	Total Hours	Time Costs £	Average Hourly Rate £
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Balance b/f 5 November 2017

270.90 60,274.21 222.50

Admin and Planning	24.40	11.30	0.00	4.90	0.30	40.90	12,935.00	316.26
Cashiering	0.20	0.40	0.00	8.50	0.50	9.60	1,702.50	177.34
Director Correspondence	4.00	0.00	0.00	0.30	0.00	4.30	1,627.50	378.49
General Correspondence	0.40	0.30	0.00	4.90	2.10	7.70	909.50	118.12
Investigations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Realisation of Assets	2.60	0.40	0.00	0.00	0.00	3.00	1,117.00	372.33
Creditors	4.10	1.70	0.00	22.40	0.80	29.00	4,839.00	166.86
Support	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Total Hours	35.70	14.10	0.00	41.00	3.70	94.50		
Total Costs	14,182.50	3,299.00	0.00	5,311.00	338.00		23,130.50	244.77

Total Time Costs From 6 November 2014 to 5 November 2018

365.40 83,404.71 228.26

Fees charged and paid:

During year ended 5 November 2015
During year ended 5 November 2016
During year ended 5 November 2017
During year ended 5 November 2018

£
20,527.00
19,100.00
18,285.51
20,470.00
78,382.51

CHARGE OUT RATES OF INSOLVENCY TEAM MEMBERS

	From 10 May 2018 £ per hour	1 Oct 2017 - 9 May 2018 £ per hour	1 Oct 2016 - 30 Sept 2017 £ per hour
Partner/Director	365-505	365-505	315-505
Manager	225-295	225-295	225-345
Senior	210	195	185-230
Administrator	75-195	75-195	85-180
Support Staff	80-95	80-95	55-105

Note 1 There may have been a number of promotions through the various grades during the period of the administration.

Note 2 Overhead costs are reflected in the charge out rates detailed.

Note 3 The charge-out rate of the Insolvency Practitioners for this assignment are currently £405 and £505 per hour, and the administrator is £130 per hour.

Note 4 Time is recorded in minimum units of 6 minutes.

Appendix 3a

AV Cargo Airlines Limited - Company Voluntary Arrangement ("the Company") Narrative of work undertaken in the period from 6 November 2017 to 5 November 2018

A description of the work undertaken since my last progress report is as follows:

1 Administration and planning

There are certain aspects of the case that are required by statute and for the efficient running of the case. They are not expected to provide a direct quantifiable benefit to creditors; however, without them, other aspects of the case which do provide a quantifiable benefit to creditors would be less efficient. They include:

- The maintenance of physical case files and electronic case management information.
- Periodic review of files,
- Strategic case planning and the routine administration of the case.
- Preparation of documentation and reports, dealing with correspondence and statutory advertising.

Specifically:

Reporting

- Preparation of a progress report to members and creditors for circulation following anniversary to advise upon the progress made over the year.

Cashiering

- Maintaining the estate bank account
- Lodging receipts
- Preparing and processing invoices for payments
- Reconciling the bank accounts, and producing the receipts and payments accounts.
- Issuing dividend cheques in respect of the dividend to preferential creditors and payment of the tax and national insurance contributions which had to be deducted from those dividends and paid directly to HM Revenue & Customs.

Time was also spent dealing with the initial suggested variation received from the directors that never happened.

2 Asset realisations

Net asset realisations provide the financial benefit to creditors and their quantum directly contributes to any dividend ultimately available to creditors.

Monitoring receipt of the voluntary contributions due pursuant to the terms of the proposal agreed by creditors. Updating the control schedule in order to ascertain whether the Company remained compliant with its obligations.

Throughout the period of this report, the Company has been in arrears with its contributions of £12,000 per month, although not in breach of the proposal.

As mentioned in the body of this report, closer monitoring of receipts was required in order to ensure any late payment was chased. This included a meeting with the directors, reviewing and chasing payments via email and telephone calls.

3 Creditors claim adjudication and preferential distribution

Time spent in this category included adjudicating creditor claims and ensuring that they had adequately proven their claims in the estate. Work undertaken in this respect was necessary to ensure that only those entitled to receive a dividend did so and that any claim was validly and adequately evidenced. I comment more on this below.

It also included dealing with routine correspondence and queries and taking telephone calls from creditors and maintaining creditor information on the electronic case management files as well as the physical case files.

Preferential creditors

In this particular case, there were 4 former employees who had preferential claims and time has been spent in obtaining information about their claims, completing documentation for submission to the Redundancy Payments Office and corresponding with employees regarding their claims.

Time has been spent in adjudicating claims and calculating a dividend to be declared and paid. This included paying tax deducted to HM Revenue & Customs from dividends due to the employees.

Unsecured creditors

In this particular case, there are approximately 200 creditors. As mentioned above, time has been incurred requesting additional information where necessary for the purpose of enabling me to adjudicate on each unsecured creditor claim.

Following receipt of the requested information from the creditors, a detailed analysis was undertaken to either accept or reject the individual claims. In certain instances further information was requested.

The above time has been incurred with a view to declaring and paying a dividend to the unsecured creditors. This is anticipated to be within the next four weeks.

Appendix 4

AV Cargo Airlines Limited – Company Voluntary Arrangement

Current Charge-Out Rates of Insolvency Team Members

	£ per hour
Partner/Director	375-505
Manager	250-345
Senior	215
Administrator	80-200
Support	95-100

Note 1: There may be a number of promotions through the various grades during the period of the administration.

Note 2: Overhead costs are reflected in the charge-out rates detailed.

Note 3: The charge-out rate of the Insolvency Practitioners for this assignment is currently £505 per hour and £405 per hour, and the administrator is £215 per hour.

Note 4: Time is recorded in minimum units of 6 minutes.

Appendix 5

Disbursements Recovery Policy

All disbursements are shown as net of VAT.

Applying the principles of the Paymex decision, where an IP from the same firm acts as both nominee and supervisor so that his services constitute a single supply for VAT purposes and the core activity at the nominee stage consists of debt negotiation, then the supply will be exempt.

Category 1 Disbursements

Specific expenditure relating to the administration of the insolvent estate and payable to an independent third party is recoverable without creditor approval. Such expenditure is made if funds are available from the insolvent estate. If funds are not available then payment is made from this firm's office account and reimbursed from the estate should funds become available.

Category 1 disbursements will generally comprise external supplies of incidental services specifically identifiable to the case. Typical items include legal fees, agents' fees, statutory advertising, insurance of assets, search fees, specific penalty bonding, telephone calls, postage, invoiced travel and properly reimbursed expenses incurred by personnel in connection with the case.

As there have been no realisations in this matter to date, all such disbursements such as statutory advertising, insurance of assets, search fees and specific penalty bonding have been paid by Menzies LLP and will be recharged through the estate as and when funds are available.